REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office action dated December 10, 2003 are respectfully requested. Applicants petition the Commissioner for a 1-month extension of time. A separate petition accompanies this amendment. Also being submitted with this amendment is a Request for Continued Examination under 37 C.F.R. §1.114.

Applicants thank the Examiner for an indication that claims 43 and 44 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

I. Amendments

A. In the Specification

The specification is amended to correct obvious typographical errors.

B. In the Claims

Claim 38 is amended to recite that each sensor member is connected to a separate energy source. Support for this amendment can be found on page 36, lines 24-27 and on page 37, lines 7-11.

Claim 45 is amended to correct a typographical error.

Claims 47 and 53 are amended for clarity.

Claim 66 is amended for consistent terminology.

New claim 68 finds support on page 18, lines 13-15.

New claim 69 finds support on page 9, lines 18-21.

New claims 70-71 find support on page 17, lines 2-8.

No new matter is added by way of these amendments.

II. Rejection under 35 U.S.C § 102

Claims 38-42 and 45-67 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Gough *et al.* (U.S. Patent No. 5,683,384).

Claims 38-42 and 45-67 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Gough *et al.* (U.S. Patent No. 5,800,484).

These rejections are respectfully traversed.

A. The Present Invention

The present invention relates to an ablation apparatus comprising (i) an elongated delivery device including a lumen, the elongated delivery device being maneuverable in tissue, and (ii) an impedance array. The impedance array comprises a plurality of resilient members being positionable in the elongated delivery device in a compacted state and deployable with curvature into tissue from the elongated delivery device in a deployed state. The resilient members define a sample volume in the deployed state. At least one of the plurality of resilient members is a sensor member and includes a sensor for determining impedance, where each sensor member is operatively connected to a separate energy source. At least some of said resilient members are electrodes which can be coupled to at least one energy source for ablating tissue when electrical energy is supplied to the electrodes from the source. The impedance array is effective to determine localized impedance.

B. The Prior Art

GOUGH ET AL. (THE '384 PATENT) relate to a multiple arm device including a primary arm with a longitudinal axis, and a secondary arm coupled to the primary arm. The secondary arm is configured to be deployed in a direction that is lateral to the longitudinal axis with at least one radius of curvature. The device may further include a multiplexer coupled to the primary antenna, the secondary antenna, and the energy source to multiplex between the primary and secondary antennas.

GOUGH ET AL. (THE '484 PATENT) describe an ablation apparatus comprising an introducer, two or more electrodes at least partially positioned in the introducer lumen, wherein each electrode is configured to be advanced from the introducer to define a

volumetric ablation volume, and a porous fluid delivery member positioned on at least a portion of an exterior of at least one of the electrodes.

C. Analysis

According to the M.P.E.P. § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference".

C1. Rejection of the '384 patent

The '384 patent fails to teach a sensor member and includes a sensor for determining impedance, where each sensor member is operatively connected to a separate energy source as in the present invention. The '384 patent makes no mention of a separate energy source for any of the deployable elements.

C2. Rejection of the '484 patent

The '484 patent fails to teach a sensor member and includes a sensor for determining impedance, where each sensor member is operatively connected to a separate energy source as in the present invention. The '484 patent makes no mention of a separate energy source for any of the deployable elements.

Accordingly, Applicants submit that standard of strict identity to maintain a rejection under 35 U.S.C. § 102 has not been met. Withdrawal of the rejections under 35 U.S.C. § 102(b) is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants submit that the claims pending in the application are in condition for allowance. A Notice of Allowance is therefore respectfully requested.

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The Examiner is invited to contact Applicants' representative at (650) 838-4410 if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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